

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT COOPER and CRYSTAL COOPER,

Plaintiffs,

v.

PROVIDENCE HEALTH CARE
FOUNDATION d/b/a PROVIDENCE
CENTRAILIA HOSPITAL; NORTHWEST
EMERGENCY PHYSICIANS, LLC.; and
LEWIS COUNTY COMMUNITY HEALTH
SERVICES d/b/a VALLEY VIEW HEALTH
CENTER,

Defendants.

CASE NO. C18-5232

NOTICE OF REMOVAL OF CIVIL
ACTION

(Lewis County Superior Court
Case No. 17-2-0006921)

To: Clerk, United States District Court
Western District of Washington

Defendant United States of America (hereinafter, "Defendant" or "Government"), by and
through undersigned counsel of record, Annette L. Hayes, United States Attorney for the Western
District of Washington, and Whitney Passmore, Assistant United States Attorney for said District,
hereby respectfully files with the Court this Notice of Removal pursuant to Title 28, United States

1 Code, Section 1442, to remove Case No. 17-2-0006921, from Lewis County Superior Court to
2 United States District Court for the Western District of Washington.

3 In support of this notice, federal Defendant indicates as follows:

4 1. On or about October 20, 2017, Plaintiffs Robert Cooper & Crystal Cooper filed a 2nd
5 Amended Complaint in Lewis County Superior Court alleging that the Defendants did not order a
6 radiographic scan nor recommended a follow up with a specialist and “this failure is a breach of the
7 standard of care...The negligence of the Defendants were a proximate cause of Robert Cooper’s
8 incomplete paraplegia, disability, and other injuries.” *See* Complaint, attached as Exhibit A.

9 2. The above-referenced state court action may be removed to the United States District
10 Court under 28 U.S.C. § 1442, by virtue of the following:

11 a. In all lawsuits such as the foregoing, that allege a negligent act or omission
12 against employees of the United States while acting within the course and scope of employment, a
13 lawsuit brought under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2679, et seq., is the sole
14 and exclusive remedy for such claims, federal district courts have exclusive jurisdiction and the
15 United States of America is the real party in interest. *See* 28 U.S.C. §§ 1346(b), 2679 et. seq.

16 b. Based on the certification of the United States Attorney, the named
17 Defendants in the 2nd Amended Complaint are federally supported health care centers covered by
18 the FTCA pursuant to 42 U.S.C. § 233(g)-(n). *See* Certification of Annette L. Hayes, United States
19 Attorney for the Western District of Washington, attached hereto as Exhibit B.

20 c. Accordingly, and based on the foregoing, the United States is the real party in
21 interest and this case will be removed to the United States District Court pursuant to Section 1442.

22 3. Under Local Rule CR 101(b), Defendant attaches a copy of the Claim in this matter.
23 Defendant will file herewith copies of all records from the state court proceeding.

1 4. A copy of this Notice of Removal is being served upon all parties to the underlying
2 litigation and will be promptly filed with the clerk of the Lewis County Superior Court.

3 5. Intradistrict Assignment. Upon information and belief and during the relevant time
4 period giving rise to the allegations of the Claim, Plaintiffs presently resides in Lewis County.
5 Additionally, upon information and belief, Case No. 17-2-0006921 is currently pending in Lewis
6 County. Accordingly, and pursuant to Local Rule CR 3(d), this case should be assigned to a judge in
7 Tacoma.

8 WHEREFORE, based upon the foregoing and pursuant to 28 U.S.C. § 1442(a)(1), the above-
9 referenced action is removed from the Lewis County Superior Court, to the United States District
10 Court for the Western District of Washington.

11 DATED this 22nd day of March, 2018.

12 Respectfully submitted,

13 ANNETTE L. HAYES
14 United States Attorney

15 s/ Whitney Passmore
16 WHITNEY PASSMORE, Fla. # 91922
17 Assistant United States Attorney
18 United States Attorney's Office
19 700 Stewart Street, Suite 5220
20 Seattle, Washington 98101-1271
21 Phone: 206-553-7970
22 Email: Whitney.Passmore@usdoj.gov

23 Attorneys for the United States of America

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

I further certify that on this date, I mailed by United States Postal Service the foregoing document to the following parties:

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DATED this 22nd day of March, 2018.

s/ Marciano Quinonez
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